

ARGUMENTS/REMARKS

This paper is submitted responsive to the official action mailed April 8, 2005. Reconsideration of the application is respectfully requested.

In the aforesaid action, the Examiner rejected all claims in the application as obvious based upon a combination of US Patent Number 6,434,403 to Ausems et al. (Ausems) in view of US Patent Number 5,963,624 to Pope (Pope).

Reconsideration of this rejection is respectfully requested. Turning to the action, the Examiner concedes that: "Ausems et al. does not clearly teach communicating structural appliance with a server programmed to accept mobile device commands; communicating a mobile device with server; issuing mobile device commands from mobile device to server; converting mobile device commands to structural appliance commands; and issuing structural appliance commands from server to structural appliance". See Official Action mailed April 8, 2005, paragraph 3, lines 6-10.

It is respectfully pointed out that the portion stated by the Examiner to not be taught by Ausems is claim 1 in its entirety.

To cure this deficiency, the Examiner relies upon Pope. Pope teaches the use of a digital cordless telephone to control electrical appliances. Control commands are carried from the cordless phone, by the voice data signal, to the base unit of the cordless phone, which can then generate an IR signal to control the desired appliance.

Pope also clearly fails to disclose a server. As set forth in previous responses, including the Appeal Brief which led to issuance of the present Official Action, the server called for in the claims has meaning to a person skilled in the art to which the invention pertains, and such person would not consider the cordless phone base of Pope to be a server. Ausems combined with Pope clearly do not arrive at the subject matter of the present claims, and reconsideration of the rejection of claim 1 is respectfully requested.

In connection with claim 2, this claim calls for the server to be communicated with the structural appliance through a gateway. The Examiner has not pointed to where in either reference there is found any teaching of this subject matter, and the undersigned cannot find same. It is submitted that the base unit ("server") of Pope clearly does not communicate with the appliance through a gateway. Instead, Pope teaches that the base unit sends IR signals to control the appliance.

In connection with claims 3-4, the Examiner states that a teaching of this subject matter is found at column 4, lines 55-57. This portion of Pope clearly does not teach sending of structural appliance information from the server back to the mobile device. Considering Pope, assuming that the base unit is considered to be the server, it does not send any information regarding the appliance back to the cordless phone.

Claim 4 calls for a series of detailed steps regarding the communication of information from the appliance back

through the gateway and server to the mobile communication device. None of this subject matter is even remotely suggested by Ausems or Pope.

In connection with claims 7 and 8, these claims call for the mobile device to be a web enabled device, and for the mobile device to be communicated with the server utilizing wireless application protocol. Ausems does not even teach the server, and Pope apparently is considered to teach a server in the form of the base unit. There is absolutely no reason nor motivation why anyone would combine the references to communicate the cordless phone of Pope with the base unit via wireless application protocol.

The Examiner takes official notice in connection with claims 9 and 10 that global satellite network and global computer network are well known in the art. While this may be true, it is a point which need not be argued at this time since whether known or not, there is absolutely no reason why a person of skill in the art would modify the cordless phone of Pope to arrive at the claimed subject matter. The device or system of Pope is used to control appliances in the home when the phone user receives a phone call. One stated use is so that televisions or stereos can be muted when a call is received. The Digital and IR communication disclosed by Pope is perfectly well suited to that purpose, and there is absolutely no motivation nor reasoning as to why a person of skill in the art would incorporate internet and satellite communications into a system such as Pope.

In connection with dependent claim 18, this claim calls for the additional subject matter that the mobile device is operated by an energy provider, and that the appliance controlled is an appliance of a customer of the energy provider (i.e., is powered by energy from the energy provider). The Examiner dismisses this subject matter as obvious design choice, and states that no problem is solved, etc., by this subject matter. In fact, this aspect of the invention advantageously allows an energy provider to control power consumption, for example during times of peak demand, or impaired supply, as several examples. This is set forth in the specification.

There is absolutely no hint or suggestion as to use of the systems of Ausems or Pope in this manner. Ausems makes no mention of it, and teaches a system with a localized receiver for each device which would not function well if attempted to be used in the manner claimed in method claim 18. Pope is drawn to a cordless phone and IR control of appliances within cordless phone range, i.e., within the house with the cordless phone. Clearly there would be no useful purpose to modify Pope to meet the subject matter of claim 18.

Based upon the foregoing, it is respectfully submitted that claims 1-19 are clearly patentable over the art of record. Reconsideration of the pending rejection is therefore earnestly solicited.

An earnest and thorough attempt has been made by the undersigned to resolve the outstanding issues in this case and place same in condition for allowance. If the Examiner

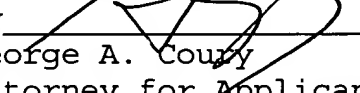
has any questions or feels that a telephone or personal interview would be helpful in resolving any outstanding issues which remain in this application after consideration of this amendment, the Examiner is courteously invited to telephone the undersigned and the same would be gratefully appreciated.

It is submitted that the claims as amended herein patentably define over the art relied on by the Examiner and early allowance of same is courteously solicited.

If any additional fees are required in connection with this case, it is respectfully requested that they be charged to Deposit Account No. 02-0184.

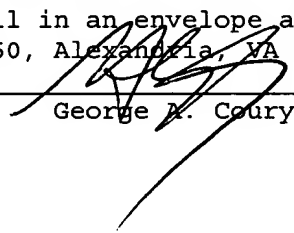
Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313" on October 11, 2005


George A. Coury